

The Brazilian State Water Resources Councils: diagnosis of civil society participation through criteria of access to information, parity, and decision-making procedures

Conselhos Estaduais de Recursos Hídricos brasileiros: diagnóstico da participação do segmento sociedade civil por meio de critérios de acesso às informações, paridade e procedimentos de tomadas de decisão

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ABSTRACT

The aim of the article was to investigate whether the Brazilian State Water Resources Councils, including the Federal District, ensure civil society participation through access to information, parity, and decision-making procedures. In this context, verification criteria were selected, with maximum score of 1 point assigned based on their suitability for the Councils, which were classified in terms of participation adequacy. The states that were deemed suitable, in descending order, were: Paraíba (1st position), Mato Grosso do Sul, Minas Gerais, and São Paulo (2nd position), Amazonas, Pará, Paraná, Rio de Janeiro, Rio Grande do Sul, Rondônia, and Santa Catarina (3rd position), Bahia, Ceará, Federal District, Espírito Santo, and Mato Grosso (4th position), Rio Grande do Norte and Tocantins (5th position), and Alagoas (6th position). The states deemed unsuitable were: Acre and Pernambuco (7th position), Piauí and Roraima (8th position), Goiás and Sergipe (9th position), and Amapá and Maranhão (10th position). As for the criteria, the ones that scored the highest were: the presence of the website and Internal Regulations of the Councils, decision-making by the Council in plenary sessions, the presence of Meeting Minutes on the website, identification of the Technical Chambers of the Councils on these channels, adherence to the regular meeting schedule, identification of the members who make up the Councils, and parity among the three sectors that constitute them. It was concluded that the State Water Resources Councils need to ensure equal participation for civil society members in their discussions and deliberations as well as provide public access to the information generated.

Keywords: collegiate bodies; water management; democracy.

RESUMO

O objetivo do artigo foi investigar se os Conselhos Estaduais de Recursos Hídricos brasileiros, incluindo o Distrito Federal, garantem a participação da sociedade civil por meio do acesso às informações, paridade e procedimentos de tomadas de decisão. Neste sentido, selecionou-se critérios de verificação, atribuindo-se nota máxima de 1 ponto à sua adequação nos Conselhos, que foram classificados em termos de adequação à participação. Os estados considerados adequados, em ordem decrescente, foram: Paraíba (1ª posição), Mato Grosso do Sul, Minas Gerais e São Paulo (2ª posição), Amazonas, Pará, Paraná, Rio de Janeiro, Rio Grande do Sul, Rondônia e Santa Catarina (3ª posição), Bahia, Ceará, Distrito Federal, Espírito Santo e Mato Grosso (4ª posição), Rio Grande do Norte e Tocantins (5ª posição) e Alagoas (6ª posição). Já os estados inadequados foram: Acre e Pernambuco (7ª posição), Piauí e Roraima (8ª posição), Goiás e Sergipe (9ª posição) e Amapá e Maranhão (10ª posição). Quanto aos critérios, os que melhores pontuaram foram: presença do sítio eletrônico e do Regimento Interno dos Conselhos, tomada de decisões do Conselho em plenárias, presença das Atas das Reuniões no sítio eletrônico, identificação das Câmaras Técnicas dos Conselhos nestes canais, cumprimento da periodicidade das reuniões regimentares, identificação dos membros que compõem os Conselhos e paridade entre os três setores que os constituem. Concluiu-se que os Conselhos Estaduais de Recursos Hídricos devem garantir a igualdade de participação aos membros da sociedade civil em suas discussões e deliberações, assim como disponibilizar o acesso às informações geradas ao público.

Palavras-chave: órgãos colegiados; gestão hídrica; democracia.

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Introduction

in Brazil, the 1970s and 1980s were marked by social and political mobilizations that fostered the process of re-democratization in the country after a long period (from 1964 to 1985) of civil-military authoritarian rule. Social participation played a significant role in expressing these demands and in the re-democratization of social policy management and implementation. The intention was to promote changes through institutional and legal mechanisms to legitimize popular participation in public policies (Silva et al., 2013).

“Social” or “popular” participation is understood as the set of actions that enable citizens to intervene in State power, considering the diversity of interests and conflicts inherent in society. The aim is to prioritize the interests of the community over those of individuals through consensual decisions (Ciesielczuk and Porras, 2021). In this sense, it constitutes a social process that requires reliable informational channels for its improvement and for the sharing of diverse knowledge and interests (Bourblanc, 2010; Pickering et al., 2022).

The 1988 Federal Constitution states that power emanates from the people either directly or through their elected representatives. In this way, Councils were established in various sectors of public administration, allowing civil society and other interest groups to discuss State issues and influence decision-making related to health, education, security, labor, housing, and environment, among others.

According to Pickering et al. (2022), democracy is not limited to free and fair elections but also encompasses values and procedural qualities such as civil liberties, public participation in decision-making, and accountability of decision-makers to rights holders.

Instruments to boost participation, such as locations with participatory instances, should be democratic, fostering high-quality participation (Di Marco, 2023). Everyone is affected by the outcomes of democratic management, not just administrators and the political elite, but also the population within civil society. To this end, collegiate bodies are channels designated to implement the deliberative model of social participation.

There are differences between spaces for social participation and processes of deliberative democracy. For their legitimacy, participation spaces require a reasonable number of people, meaning that it is necessary to have a meeting with a significant number of participants. Deliberative democratic spaces are not legitimized by quantity but by the quality of specific argumentation processes. Deliberative councils are not legitimate because they involve a large number of people, but because the key actors are represented there (Muttaqin et al., 2023).

The National Water Resources Policy, through the enactment of Law No. 9,433, is based on participation in water management and its integrated multiple uses, through entities of the National Water Resources Management System, including collegiate bodies represented by the National Water Resources Council, State Water Resources Councils (SWRCs), and the Federal District, as well as Basin Commit-

tees. These bodies are deliberative instances formed by representatives of the states, water resource users, and organized civil society, responsible for ensuring the rational and legitimate use of this diffuse good (Brasil, 1997; Malheiros et al., 2013).

SWRCs are bodies that deliberate on conflicts over water use between river basins, develop resolutions that must be followed by the Basin Committees of the states, and are responsible for the preparation and monitoring of State Water Resources Plans.

In order to distinguish the sectors represented in the collegiate bodies of water management, the following definition of civil society is adopted: “an institutional nucleus, composed of free, non-state, and non-economic associations and organizations that support the communication structures of the public sphere” (Muller Neto and Artmann, 2012, p. 3410). Such a definition allows for the distinction of represented sectors, including in “civil society” the representatives of Non-Governmental Organizations (NGOs), Civil Society Organizations of Public Interest (CSOPIs), and various social movements from groups with economic interests in water resources, generally referred to as “users”. In theory, it is assumed that the demands, discussions, and deliberations in the Councils will have distinct approaches between these two sectors and that, to ensure the dialogue of interests, there should be equal representation among organized civil society, users, and the State.

The user sector has representatives with economic interests in water, seeking to ensure its use for irrigation, livestock, hydroelectric power generation, mining, industry, and other purposes. Trade associations, often performing as representatives of civil society in Councils, cater to labor interests and, therefore, economics, bringing a technical approach to water management. Social movements, in turn, bring concerns related to water as a resource that needs conservation and preservation to ensure the population’s supply, the continuity of their ways of life (as in the case of traditional populations), and its adequate quality and quantity for the well-being of the population and other forms of life, in short, for environmental justice.

It is also important to highlight the influence that civil society has on the State, as these two entities can be understood as organically related and mutually influencing each other, with civil society being characterized as the “ethical content of the State”.

Civil society encompasses two constitutive aspects: the system and the lifeworld. By “system”, we understand the social spheres that form collectives, such as associations and organizations specialized in certain social aspects, which Habermas refers to as a “functionally specialized action system”, for example, organized groups. Therefore, it is composed of groups that mediate between public administration and the private sphere (lifeworld) (Habermas, 1997).

The “lifeworld”, on the other hand, corresponds to the private sphere that forms networks of communicative actions. The core of the lifeworld is characterized by intimacy, where individuals are shielded

from publicity. The author asserts that both the “lifeworld” and the “system” refer to forms of social reproduction that work together for integration, forming the context of civil society. Social reproduction in the lifeworld occurs through communicative actions, while in the system, it is carried out through instrumental actions (Habermas, 1997).

Society is described as an organism where established structures emerge from the dialogue that takes place in the public sphere. In this way, society performs essential functions and is always in transformation, guiding itself to enrich the democratic process through citizens who seek to insert and maintain their rights in the State.

In a Democratic Rule of Law, conflict is inherent (Bobbio, 2017) and must be accommodated in the deliberative process of public policies, such as in collegiate bodies. In the search for consensus, dialogue is a fundamental tool used in spaces that require public debates, with the participation of civil society being essential for making the best decisions that involve a high degree of complexity (Habermas, 2014).

Among the problems requiring complex solutions regarding water resources are natural and anthropogenic water scarcity, pollution caused by excessive use, waste, and the lack of universal access to basic sanitation. These issues result from power struggles and the capitalist system of natural resource exploitation, which justifies the unchecked exploitation of environmental assets in the name of “development” (Peixoto et al., 2022).

As observed, existing participatory processes in water resource management are crucial for ensuring civic rights and responsibilities (Fontaine et al., 2022). However, studies on this topic report that participation does not always occur in an efficient and democratic manner. Among the listed reasons and difficulties is the use of technical terms, which prevents broad segments of society from contributing due to a lack of simplified information on the topics discussed in meetings and deliberations of collegiate bodies, leading them to feel alienated from the decision-making process (Mesquita, 2018; Fontaine et al., 2022).

For social participation to occur, the 1988 Federal Constitution establishes in Article 5, Section XXXIII, that “everyone has the right to receive from public authorities information of their particular interest or of collective or general interest, which shall be provided within the timeframe set by law, under penalty of liability, except for those whose confidentiality is essential to the safety of society and the State” (Brasil, 1988).

To regulate this article of the Federal Constitution, Law No. 12,527 was enacted in 2011, which guarantees the right to access information. Article 3 of the Law stipulates that procedures for this purpose must be carried out under the basic principles of public administration. Article 6 provides that: “It is the responsibility of public authorities and entities, in accordance with applicable specific norms and procedures, to ensure transparent management of information, providing broad access to it and its dissemination” (Brasil, 2011, Article 6).

Beyond the Access to Information Law, Brazil is a signatory to the Regional Agreement on Access to Information, Public Participation, and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), which aims to implement the human right of every individual to seek, receive, and disseminate environmental information in the region. With the agreement, transparency in public administration is a requirement for societal participation and guarantees democracy (UNESCO, 2024).

Access to information is of the utmost importance in society; as declared by Suman (2021), a well-informed citizen has a valuable tool for the social control of power. This is because, by encountering information and understanding the true meaning of environmental issues, people are rescued from their state of alienation and passivity. In this way, they achieve their citizenship, becoming capable of actively participating in decision-making processes that will determine the future of humanity on Earth.

Despite the shortcomings of popular participation, its benefits to democracy are numerous. Among them, one can mention the sharing of traditional knowledge from ethnic communities, which implies greater coherence between project goals and the values of the communities in the area; increased acceptance of programs by the population, as people generally show greater receptivity to those in which their representatives are involved; and greater legitimacy of the decision-making process, as it occurs in a more transparent manner, as well as others.

When thinking about social participation, the intent is the realization of democratic values and the strengthening of citizenship. Since social participation aims to improve resource management through its democratization, an assessment is necessary to understand different realities and its effectiveness as a tool for good management. Additionally, such an analysis is required for developing more effective forms of social participation (Carr et al., 2012).

One way to evaluate civil society participation is through performance or effectiveness criteria. Democratic values require water resource councils to have a political, institutional, and administrative structure for the sustainable management of water resources, ensuring the public’s right to access and the quality improvement of this environmental asset (Ituarte-Lima and Mares, 2024).

Popular participation in water management plays an important role in the development and implementation of successful public policies, contributing to economic development and well-being of populations (Ituarte-Lima and Mares, 2024). The absence of democratic values in state bodies can result in ineffective public policies, inadequate oversight, weak institutions, and corruption. Given the importance of democratization in water management, the article aimed to investigate whether the SWRCs in Brazil, including the Federal District, ensure civil society participation through access to information, parity, and decision-making procedures.

Materials and Methods

In this article, eight criteria were selected to assess civil society participation in the SWRCs in Brazil and the Federal District, including access to the generated information, without which participation cannot be effectively achieved.

Despite the existence of various requirements for adequate levels of participation in collegiate water management bodies, such as those pointed out by Malheiros et al. (2013) and Nêris and Pizella (2022): the suitability of the language used in discussions and deliberations (which is predominantly technical and difficult for the interested public to understand); the lack of sufficient time for civil society to follow discussions; difficulty accessing the deliberation space; and procedural difficulties in electing civil society members, among others, it was not possible to address all the criteria present in the literature. Given the number of Councils to be investigated and the difficulties accessing their members to administer questionnaires that would examine the aforementioned problems, only criteria related to access to information, decision-making procedures, and representativeness were included in this study. These criteria correspond to the three dimensions of democracy, namely: deliberative participation, accountability, and representativeness, according to Alegria (2024).

Survey of the SWRC websites or their equivalent bodies, which can be accessed through the National Water and Basic Sanitation Agency (ANA, in Portuguese). In each Council, separately, we investigated whether the following criteria that enable civil society participation were met:

- Existence of the website: indicates access to data and, consequently, the transparency of the discussions and deliberations conducted through it, as it serves as a means of accessing SWRCs information;
- Presence of the Internal Regulations of the SWRCs in Brazil and their equivalent bodies: a fundamental document for identifying competencies, composition, and other structural aspects;
- Composition of the Councils: to investigate whether the composition was balanced (each representative sector has an equal number of seats on the Council). Since Habermas's (2014) definition of civil society was used in various situations, the division of Council members into representatives of the State, users, and civil society was reassessed due to differences in the conceptualization of the term;
- Identification of the members composing the Councils: the Councils' websites were analyzed to locate members and if their contact information, such as email, were provided. This criterion denotes transparency, as knowing the representatives is important for the public to submit their demands and receive feedback on the decisions made;
- Internal Regulations: the aim was to identify how decision-making was carried out—plenary meetings and/or *ad referendum*—

considering that plenary meetings allow all present members to participate;

- Minutes of plenary meetings: it was identified whether the Councils' websites had the minutes of plenary meetings for a period of at least three years (2020 to 2022). This is a relevant criterion for assessing the transparency of the Councils, as it allows interested parties to obtain information about the discussions and deliberations that took place during the meetings;
- Frequency of meetings: based on the investigation of the Internal Regulations of each Council, it was observed whether the frequency of plenary meetings was being adhered to. This criterion is fundamental to ensure pluralistic decision-making in the councils. In investigating this criterion, the period from 2020 to 2022 was considered, during which the Minutes of Meetings or their Announcements were sought on the Councils' websites. Given the period of the COVID-19 pandemic that the country went through, the year 2020 was considered a time of adaptation to remote meetings;
- Technical Chambers: It was investigated whether the Councils provide, on their websites (not in their Internal Regulations), the names of the Technical Chambers and their representatives. The existence of Technical Chambers indicates ongoing discussions among the councilors on topics relevant to the Councils, while the presentation of their members indicates transparency.

Analysis of Results

The data were analyzed and presented separately according to each SWRC, as described below.

For each verification criterion proposed in the methodology (8 in total), a score of 1.0 was attributed if it was satisfactorily achieved. If it was not met, a score of 0 (zero) was given. A score of 0.5 was assigned when the criterion was partially met.

The only criteria that allowed for a score of 0.5 were criteria 7 and 8. For criterion 7 (Frequency of meetings), if the Council followed the scheduled meeting frequency in 2021 and 2022, a score of 0.5 was assigned, reflecting partial fulfillment. Only states that complied with the Regulations throughout the entire period were awarded the maximum score (1 point). For criterion 8 (Technical Chambers), if the Council presented the names of the Technical Chambers but not their members, the criterion was considered "partially met," and a score of 0.5 was attributed.

The final score (Fs) was obtained from the summation of the items below (Equation 1):

$$F_S = \frac{[cr1+cr2...+cr8]}{8} \cdot S \quad (1)$$

Where:

cr1=criteria 1 (assigned value); and
S=sum of the criteria (that is, 8).

In this sense, $F_s \geq 4.0$ indicates that the SWRC has a satisfactory level of participation according to the criteria used in the research, representing compliance with half or more of the criteria.

Based on the final scores obtained (from the highest to the lowest), the Councils were ranked to compare the diagnosis conducted (Table 1). The information obtained was discussed in light of the literature.

Results and Discussions

Based on the information gathered in the Methodology, the following scores were obtained for each SWRC, as presented in Table 1.

Regarding the first criterion, namely, the existence of a website for the SWRC, it was found that almost all Brazilian states and the Federal District have one. This allows interested parties to monitor their activities, such as the development of State Water Resources Plans and general information

Table 1 – Criteria diagnosing civil society participation in Brazilian State Water Resources Councils, including the Federal District.

State	Website	Internal Regulation	Parity	Council Members: identification	Decision making	Meeting Minutes	Periodic Meetings	Technical Chambers	Total points
Acre	1	1	0	0	1	0	0	0.5	3.5
Alagoas	1	1	0	0	1	1	0	0	4
Amapá	1	0	0	0	0	0	0	0	1
Amazonas	1	1	0	0	1	1	1	0.5	5.5
Bahia	1	1	0	0	1	1	0	1	5
Ceará	1	1	0	0	1	1	1	0	5
Federal District	1	1	0	0	1	1	0.5	0.5	5
Espírito Santo	1	1	0	0	1	1	1	0	5
Goiás	1	1	0	0	0	0	0	0	2
Maranhão	0	1	0	0	0	0	0	0	1
Mato Grosso	1	1	0	0	1	1	1	0	5
Mato Grosso do Sul	1	1	0	0.5	1	1	0.5	1	6
Minas Gerais	1	1	0	1	1	1	0	1	6
Pará	1	1	0	0.5	1	1	0.5	0.5	5.5
Paraíba	1	1	0	1	1	1	1	1	7
Paraná	1	1	0	1	1	1	0	0.5	5.5
Pernambuco	1	1	0	0	1	0	0	0.5	3.5
Piauí	1	1	0	0	1	0	0	0	3
Rio Grande do Norte	1	1	0	0.5	1	1	0	0	4.5
Rio Grande do Sul	1	1	0	0.5	1	1	0	1	5.5
Rio de Janeiro	1	1	0	0.5	1	1	0	1	5.5
Rondônia	1	1	0	0	1	1	1	0.5	5.5
Roraima	1	1	0	0	1	0	0	0	3
Santa Catarina	1	1	0	0.5	1	1	0	1	5.5
São Paulo	1	1	0	1	1	1	1	0	6
Sergipe	1	1	0	0	0	0	0	0	2
Tocantins	1	1	0	0	1	1	0	0.5	4.5
Overall Average	0.9	0.9	0	0.2	0.8	0.7	0.3	0.4	4.6

about water management in each state. The only Brazilian state without a SWRC is Acre. However, according to the National Pact for Water Management Consolidation Program (PROGESTÃO, in Portuguese) website, the state has an equivalent body—the State Council for the Environment and Forest (CEMAF, in Portuguese). The state of Maranhão did not have a functioning website during the research period, which hindered its investigation. As a result, the overall average for the indicator was 0.9 points.

Most states have an Internal Regulations document available for reading, which is necessary to present the Council's structure and functioning and thus facilitate the proposed analysis. In the state of Maranhão, it is possible to find the Internal Regulations through an online search system like "Google", as the Council's website is not operational.

The only exception is the state of Amapá, with the average score of 0.9 points for this indicator.

When analyzing the parity of the SWRCs from the perspective of society as outlined by Muller Neto and Artmann (2012), which excludes organizations with economic interests from the concept, the following results were obtained for the states and the Federal District, as shown in Table 2.

University representatives were considered members of civil society in all states, as they are not social actors representing the State or the productive sector. Another criterion was to include the Basin Committees as bodies belonging to the Public Power, even though they are collegiate bodies since they are part of the National Water Resources Management System (NRMS, or SINGREH in Portuguese).

Table 2 – Quantity (in total number and percentage) of representatives from the State, the productive/economic sector, and civil society in the Brazilian State Water Resource Councils, including the Federal District.

States	State Representatives n (%)	Representatives from the productive/ economic sector n (%)	Representatives from civil society n (%)
Acre	11 (0.5)	6 (0.3)	5 (0.2)
Alagoas	11 (0.6)	4 (0.2)	3 (0.2)
Amapá	Missing information	Missing information	Missing information
Amazonas	25 (0.7)	8 (0.2)	4 (0.1)
Bahia	9 (0.4)	6 (0.3)	5 (0.2)
Ceará	15 (0.6)	4 (0.2)	5 (0.2)
Federal District	17 (0.6)	4 (0.2)	7 (0.3)
Espírito Santo	Missing information	Missing information	Missing information
Goiás	8 (0.5)	5 (0.3)	4 (0.2)
Maranhão	13 (0.5)	8 (0.3)	7 (0.2)
Mato Grosso	19 (0.5)	11 (0.3)	6 (0.2)
Mato Grosso do Sul	13 (0.5)	7 (0.3)	4 (0.2)
Minas Gerais	20 (0.5)	7 (0.2)	9 (0.3)
Pará	16 (0.5)	11 (0.3)	5 (0.2)
Paraíba	13 (0.6)	4 (0.2)	5 (0.2)
Paraná	25 (0.7)	6 (0.2)	5 (0.1)
Pernambuco	18 (0.5)	8 (0.3)	7 (0.2)
Piauí	18 (0.8)	1 (0.0)	4 (0.2)
Rio Grande do Norte	21 (0.7)	3 (0.1)	6 (0.2)
Rio Grande do Sul	21 (1.0)	0	0
Rio de Janeiro	16 (0.5)	7 (0.2)	9 (0.3)
Rondônia	15 (0.5)	11 (0.3)	5 (0.2)
Roraima	Missing information	Missing information	Missing information
Santa Catarina	11 (0.5)	3 (0.2)	6 (0.3)
São Paulo	24 (0.7)	7 (0.2)	2 (0.1)
Sergipe	10 (0.7)	3 (0.2)	2 (0.1)
Tocantins	19 (0.7)	4 (0.2)	3 (0.1)
Overall Average (%)	0.6	0.2	0.2

In several Councils, professional associations (such as the Council of Architects, Engineers, and Biologists, among others) were classified as civil society. However, since they represent the interests of economic groups, they were included as part of the economic/productive sector. The Brazilian Association of Sanitary and Environmental Engineering (ABES, in Portuguese), the Brazilian Association of Water Resources (ABRHidro, in Portuguese), and the Brazilian Association of Groundwater (ABAS, in Portuguese) were considered members of civil society, as they do not represent the Public Authority or the economic sector. Public service providers for water supply and sanitation were classified as Public Authority, as their primary functions are under State jurisdiction.

The state of Amapá does not provide details on the composition of its SWRC, only states that it is composed of 33 members. In Espírito Santo and Roraima, the composition of the Councils was not found, resulting in a score of 0 (zero) for both cases.

The lack of criteria for defining civil society in all Brazilian SWRCs is evident given that universities, even state-owned ones, do not represent the State, as they have autonomous management. The Basin Committees were also included as representatives of civil society in some SWRCs, despite being organs of the NRMS and, therefore, part of the State. In various Councils, there is no division between representatives from the three sectors. Instead, there is a list of entities, which makes it difficult for the public to identify the numerical representation of each sector and, thus, to analyze the parity in representation.

As for the representatives of the three sectors analyzed across all states that provide this information, the majority are from the Public Sector, with 60% of seats on the Councils, while 20% represent the productive sector, which is equal to the percentage representing civil society. Therefore, there is no parity among the representatives on the SWRCs. Rio Grande do Sul is the only state where the Council consists entirely of members representing the state. Amazonas, São Paulo, Sergipe, and Tocantins have the lowest number of seats for civil society (all 10%) in the Councils, whereas the Federal District, Rio de Janeiro, and Santa Catarina perform better (30% representation). The overall average for this indicator was 0 (zero)—the lowest score awarded.

In terms of parity in the Councils, according to Fontaine et al. (2022), the lack of equal representation among members is one of the main challenges for social participation in these water management bodies, as there are not equal access conditions compared to government bodies and the productive sector. However, unlike the authors and the Councils' Regulations, there is no criterion for delineating between civil society, the productive sector, and the State in their composition, which this article aimed to address.

The National Water Resources Policy of 1997 stipulates that the public sector should not occupy more than 50% of the seats on Basin Committees (which is also expected for State Councils and the Nation-

al Water Resources Council). However, the Councils show an average of 60% of the seats occupied by the State.

It is important to emphasize the need for equal representation of members on Councils to enhance participation and legitimacy in decision-making processes. The National Water Resources Policy itself could be reviewed in this regard as it provides for the involvement of the three interested sectors in Basin Committees (which seems to influence the composition of State Councils) but does not ensure their parity.

For members of civil society to have a voice and voting rights in participatory venues, effectively realizing democracy in water management, legal changes are necessary. This is because the interests of the governmental sector and users are more easily accommodated in decision-making processes due to their advantages in terms of information, time, and understanding of the “rules of the game” present in decision-making spheres.

Beyond these points, as highlighted by Akerboom and Craig (2022), the participation and representation of various actors in water management play a crucial role in shaping public policies that prioritize public interests over private ones. This support contributes to improvements in water quality and access, advancing socio-environmental sustainability principles. Therefore, it is necessary for all sectors involved in water governance, whether civil society, water users, or the government, to act in a way that balances rights and responsibilities as representatives (Di Marco, 2023).

At the same time, the literature includes authors who propose a different view regarding the importance of democratic values for achieving environmental sustainability. These authors, known as eco-authoritarians, argue that more centralized and technocratic management practices are more suitable for this purpose.

Arguments in favor of this approach include the complexity of contemporary environmental issues, which may be beyond the understanding of the average citizen, and the fact that electoral cycles in democratic governments are short and lead to short-term priorities (Shearman and Smith, 2007).

However, it is widely acknowledged in the literature on the democratization of environmental issues that public and plural spaces for participation should be encouraged. Such spaces allow for the exposure of conflicts of interest between the involved sectors, as democracy relies on the diversity of perspectives on the use of environmental resources, such as water, to choose the best alternatives in environmental planning and management. Additionally, such conflicts must be better resolved through interdisciplinarity and the contribution of various forms of knowledge. It is essential that all involved actors have the right to voice their opinions and advocate for the interests of their respective sectors.

Regarding the identification of the members that compose the Councils, the third criterion employed is fundamental for public information about the identity of the councilors, allowing the monitoring of

their roles as representatives, inducing social demands, and facilitating participation in water management. Even if indirectly, the following results were obtained: Goiás, Mato Grosso do Sul, Pará, Rio Grande do Norte, Rio Grande do Sul, Rio de Janeiro, and Santa Catarina received a score of 0.5 for this indicator. This score was given because these states provide the names of the representatives but does not include electronic contact information, thus partially meeting the criterion. Only Minas Gerais, Paraíba, Paraná, and São Paulo provide the names of the representatives along with their respective contact information, fully meeting the criterion and receiving the maximum score (1 point). The overall average was 0.2 for this indicator.

The fifth criterion used referred to how decisions are made in the Councils, whether through plenary meetings or *ad referendum*. Fundamental decisions should be made through plenary meetings, as they allow participatory deliberation by the representatives. As a result, it was found that, in most Councils, decisions are made by simple majority, with the President having a common vote and, in some cases, a casting vote. In specific situations, Presidents can make decisions *ad referendum* of the Councils when characterized as urgent. However, the decision made must be presented to the Plenary for discussion and deliberation. Information about Amapá cannot be obtained as the Internal Regulations of the Council are not found through online searches for this state. Additionally, Goiás, Maranhão, and Sergipe do not provide details on how decisions are made in their Councils' Internal Regulations. Considering this, the total average for this indicator was 0.8.

The sixth criterion dealt with the presence of Meeting Minutes from plenary sessions on the Councils' websites for the period from 2020 to 2022. This criterion is important for analyzing the transparency of discussions and decisions made by the Councils. Minutes from the SWRCs of Acre, Amapá, Goiás, Pernambuco, Piauí, Roraima, and Sergipe were not found. There is no website for the Council in the state of Maranhão. The total average for this criterion was 0.7.

The seventh criterion referred to the frequency of Council meetings, determined by identifying the Internal Regulations of each Council and their adherence, through searches on their websites. In states where it was not possible to find the Meeting Minutes for the research period, 0 (zero) points were awarded, as it is not possible to verify the frequency of meetings. This situation occurred in the state Councils of Acre, Amapá, Goiás, Maranhão, Pernambuco, Piauí, Rondônia, Roraima, and Sergipe. It is worth noting that the absence of Meeting Minutes does not imply the absence of meetings, but according to the research assumption regarding transparency in water management, no points were awarded to organizations that do not provide information to the interested public. Minas Gerais, Rio de Janeiro, and Santa Catarina do not present the frequency of regular meetings in their Internal Regulations, which explains the lack of points for these Councils.

The states that did not meet the criterion for not presenting the frequency of meetings according to the Internal Regulations were Alagoas, Bahia, Paraná, Rio Grande do Norte, Rio Grande do Sul, and Tocantins. On the other hand, the Federal District, Mato Grosso do Sul, and Pará partially met the criterion. The overall average was 0.3 for this indicator.

Since it is essential that Council members are able to fulfill their roles as representatives of the interested parties, the inadequacy in meeting frequency found in various Councils hinders progress in discussions critical to effective water resource management. Additionally, the low frequency of meetings can discourage Council participants from engaging, as it negatively impacts the integration and involvement of the actors (Malheiros et al., 2013).

This criterion received an average score of 0.3, as nearly all Brazilian states scored either 0 (zero) or 0.5 on this item of water governance, with only Amazonas, Ceará, Espírito Santo, Mato Grosso, Paraíba, Rondônia, and São Paulo achieving the maximum score. It is possible that the COVID-19 pandemic affected the meeting dynamics in 2020 and potentially in 2021, due to difficulties accessing computers and the internet, which may have contributed to the obtained results.

The eighth criterion focused on the presence of the names of Technical Chambers and their representatives on the Councils' websites. As mentioned, the presence of Technical Chambers indicates ongoing discussions by councilors on relevant topics while the presentation of their members indicates transparency. The states of Alagoas, Amapá, Bahia, Ceará, Espírito Santo, Goiás, Maranhão (which does not have a functioning website), Mato Grosso, Rio Grande do Norte, and Sergipe scored 0 (zero) for not presenting any of the requirements specified by the criterion, namely, the names of the Technical Chambers and their members.

The state Councils that scored 0.5 points for presenting at least the Technical Chambers were: Acre, Amazonas, Pará, São Paulo, Rondônia, Roraima, and Tocantins. The Council of Pernambuco presents a PDF document with the names of the members of the Technical Chambers from 2016, but due to the lack of updates on the official website, a score of 0 (zero) was assigned for this requirement, even though the state received a score of 0.5 in this criterion. In the Federal District and Paraná, the affiliations of the members who make up the Technical Chambers and Working Groups are present, but without their respective identifications, which led to a score of 0.5 in this criterion.

Mato Grosso do Sul, Paraíba, Rio de Janeiro, Rio Grande do Sul, and Santa Catarina received the highest score. The State Council of Minas Gerais presents, on its homepage, a Resolution that establishes the composition and designation of the members of the Specialized Technical Chambers, and therefore, it was awarded 1 point in the analyzed criterion. The overall average score for this criterion was 0.4.

For social participation to be characterized as effective and democratic, transparency and access to information are essential, as they enable symmetrical engagement of the involved actors and allow for a

more just and coherent decision-making process (Suman, 2021; Fontaine et al., 2022). Moreover, as outlined in Principle 10 of the 1992 Rio Declaration, which has since been regulated by the Regional Agreement on Access to Information, Public Participation, and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), environmental issues are better resolved with the participation of concerned citizens, who must have appropriate access to information related to environmental matters (Ituarte-Lima and Mares, 2024; UNESCO, 2024).

According to Fontaine et al. (2022), the transparency of actions by state administrative entities allows for the monitoring and supervision of their performance, potentially leading to sanctions in cases of wrongdoing. At the same time, non-state actors can activate accountability mechanisms against government agencies and other state actors who do not behave appropriately. The presence of a website, the Internal Regulations of the Councils, deliberation in plenary sessions, and the presence of Meeting Minutes on the Councils' official channel are ways to institutionalize transparency regarding the actions of these bodies, as it changes their structures, routines, practices, and procedures, aiming at democratic management.

The accountability of discussions and deliberations carried out in the Councils increases access to public information and, consequently, the ability of non-state sectors to understand the actions performed by these bodies and their intervention through their representatives. According to Ordoñez (2020), access rights contribute to strengthening the Rule of Law in favor of human rights and sustainable development.

Brazil is a signatory to the Escazú Agreement and, therefore, must provide access to environmental information at all levels of public administration. Ensuring this right is a way to prevent individual interests from prevailing over collective ones, and as one of the pillars of democracy, it enables the opening of political processes in the public space (UNESCO, 2024).

In this way, states should be responsible for facilitating and encouraging public awareness and participation by making information related to environmental issues available. Consequently, the lack of information regarding the actions and deliberations of the Councils, in criteria related to access to information (such as the presence of websites, Internal Regulations, the composition of Councils and their Technical Chambers, and Meeting Minutes) in several studied Councils is concerning.

Considering the scores of each state regarding each of the eight analyzed criteria that indicate the legal, institutional, and informational possibilities for civil society to participate in the SWRCs, Table 3 presents the ranking of states, from the highest to the lowest scores. It is also possible to see which states received scores classified as inadequate (below 4 points).

In Paraíba, the state that appears in first position in Table 3, the only deficiency found in the Council, according to the criteria used, was the lack of parity among the three represented sectors. The parity criterion was the only one not fully met in all the analyzed Councils, indicating a lack of permeability of civil society in these bodies, to the detriment of the state, which occupies an average of 60% of the seats on the Councils.

The states that scored as inadequate can be divided into Acre and Pernambuco, which are ranked 7th and have, in addition to the lack of parity, the absence of information about the Meeting Minutes and the members of the Councils, and lack of periodic meetings. These requirements are important for communication between the Council and its constituents, who should have access to what is discussed and decided in this participatory space, as well as information about their representatives on the body, to submit their demands and suggestions. This also facilitates the exchange of knowledge between Council members and those interested in water management.

Table 3 – Ranking of the State Water Resources Councils of Brazilian states and the Federal District, regarding the possibilities for civil society participation (in descending order).

Ranking position (total points/adequacy)	States and Federal District
1st position (7 points/adequate)	Paraíba
2nd position (6 points/adequate)	Mato Grosso do Sul, Minas Gerais, and São Paulo
3rd position (5.5 points/adequate)	Amazonas, Pará, Paraná, Rio de Janeiro, Rio Grande do Sul, Rondônia, and Santa Catarina
4th position (5 points/adequate)	Bahia, Ceará, Federal District, Espírito Santo, and Mato Grosso
5th position (4.5 points/adequate)	Rio Grande do Norte and Tocantins
6th position (4 points/adequate)	Alagoas
7th position (3.5 points/inadequate)	Acre and Pernambuco
8th position (3 points/inadequate)	Piauí and Roraima
9th position (2 points/inadequate)	Goiás and Sergipe
10th position (1 point/inadequate)	Amapá and Maranhão

Following the ranking, it is noted that, for the states of Piauí and Roraima, besides the deficiencies found in the higher-ranked states, there is no information about the Technical Chambers, such as the topics they discuss and their members. Since they are important spaces for the ongoing discussion of specific issues, and their decisions are brought to the Council's Plenary, it would be essential to also present the minutes of their meetings. This would provide insight into the specific discussions on water management in the states, such as the implementation of the National Water Resources Policy instruments, including classification, water use permits and charges, water planning, groundwater status, environmental education actions, and others. Additionally, providing contact information for the members of these bodies facilitates the public's access to knowledge in a more direct manner, as their representatives are more actively engaged in the issues relevant to their roles.

Observing the states of Goiás and Sergipe, in addition to the difficulties noted in other states, there is a lack of information regarding how the Council's decisions are made. In Goiás, this is possibly due to the absence of the Council's Internal Regulations, which could not be found through a *Google* search, i.e., outside the organization's website. In Sergipe, reading the Internal Regulations does not provide access to procedural information important for determining whether the Plenary of the Council is in the Council's deliberations. The absence of Internal Regulations in Goiás is a hindrance to understanding the composition, structure, and functioning of the Council.

Amapá and Maranhão, which obtained the lowest rankings compared to the other states, differ only in the presence of Internal Regulations, which are absent in Amapá. However, it is worth noting that, in Maranhão, the Council's website is not active, allowing only the opening of a file that presents the Council with its Internal Regulations.

Despite the deficiencies found, the majority of the Councils (19) were classified as adequate for civil society participation in most analyzed criteria. They need adjustments in communicating information but, above all, changes in their composition to seek equality of involvement among interest sectors in water management.

Therefore, it is evident that the gaps identified in the SWRCs in this article are not exclusive to these bodies, as representation and participation throughout the water resources management system require improvements regarding its democratization.

Conclusions

From the analyses, it was found that none of the State Water Resources Councils has a parity composition among the sectors of Public Authority (states and municipalities), water users, and civil society. As a consequence of non-parity compositions in deliberative bodies, there is a deficiency in the democratization of water management, violating the principle of participation in decision-making present in the National Water Resources Policy and environmental law more broadly. In this regard, this research recommends parity in the composition of the Councils, granting equal participation rights to the three interest sectors. It is suggested to amend Article 1, Section VI of the National Water Resources Policy, which currently reads: "The management of water resources should be decentralized and include the participation of the Public Authority, users, and communities", by adding "on equal terms" or "with equal seats on the water management bodies".

In general, however, the results allow us to conclude that the majority of the Councils have shown compliance with most of the criteria used in the article, which are identified in the literature as ensuring democratic water management. The difficulties presented need to be addressed through national laws or resolutions, particularly concerning parity.

It is recommended to conduct research that delves into other factors identified in the literature that hinder participation in the Councils, such as the use of technical language, the availability of time to follow discussions in the Technical Chambers, the low turnover of representatives, and difficulties in traveling to the Council's headquarters, among other relevant issues. Interviews with council members from the civil society sector are important tools for identifying these problems and providing solutions.

Author's contributions

Pizella, D.G.: conceptualization, funding acquisition, methodology, project administration, resources, supervision, validation, visualization, writing – original draft, writing – review & editing. **Vitória, B.S.:** data curation, formal analysis, investigation, writing – original draft.

References

- Akerboom, S.; Craig, R.K., 2022. How law structures public participation in environmental decision making: a comparative law approach. *Environmental Policy and Governance*, v. 32, 232-246. <https://doi.org/10.1002/eet.1986>.
- Alegría, D.C., 2024. If there's no support, we don't advance: Emerging environmental democratization in water pollution governance in Lake Titicaca, Peru. *Geoforum*, v. 149 (103964), 1-13. <https://doi.org/10.1016/j.geoforum.2024.103964>.
- Bobbio, N., 2017. O futuro da democracia: uma defesa das regras do jogo. Paz e Terra, Rio de Janeiro.
- Bourblanc, M., 2010. Social participation in water governance and management: critical and global perspectives. *Water Resources Development*, v. 26 (4), 709-713. <https://doi.org/10.1080/07900627.2010.520916>.
- Brasil, 1988. Constituição da República Federativa do Brasil. Diário Oficial da União, Brasília.

- Brasil, 1997. Lei nº 9.433, de 8 de janeiro de 1997. Diário Oficial da União, Brasília.
- Brasil, 2011. Lei nº 12.527, de 18 de novembro de 2011. Diário Oficial da União, Brasília.
- Carr, G.; Blöschl, G.; Louks, D.P., 2012. Evaluating participation in water resource management: a review. *Water Resources Research*, v. 48 (11), 1-17. <https://doi.org/10.1029/2011WR011662>.
- Ciesielczuk, J.; Porras, G.L., 2021. Public participation and the Escazú agreement: Implementation challenges for vulnerable groups amid a global pandemic. *IUCN AEL Journal of Environmental Law*, (11), 12-33.
- Di Marco, A., 2023. Water democracy under European Union law: Requiring participatory services management. *Utilities Policy*, v. 84 (101648), 1-10. <https://doi.org/10.1016/j.jup.2023.101648>.
- Fontaine, G.; Carrasco, C.; Rodrigues, C., 2022. How transparency enhances public accountability: The case of environmental governance in Chile. *The Extractive Industries and Society*, v. 9 (101040), 2-14. <https://doi.org/10.1016/j.exis.2021.101040>.
- Habermas, J., 1997. *Direito e democracia: entre facticidade e validade*. Tempo Brasileiro, Rio de Janeiro, 354 p.
- Habermas, J., 2014. *Mudança estrutural da esfera pública: investigações quanto a uma categoria da sociedade burguesa*. Tempo Brasileiro, Rio de Janeiro, 543 p.
- Ituarte-Lima, C.; Mares, R., 2024. Environmental democracy: Examining the interplay between Escazú Agreement's innovations and EU economic law. *Earth System Governance*, v. 21 (100208), 1-13. <https://doi.org/10.1016/j.esg.2024.100208>.
- Malheiros, T.F.; Prota, M.G.; Pérez-Rincón, M.A., 2013. Participação comunitária e implementação dos instrumentos de gestão da água em bacias hidrográficas. *Revista Ambiente & Água*, v. 8 (1), 98-118. <https://doi.org/10.4136/ambi-agua.970>.
- Mesquita, F.G., 2018. Os comitês de bacias hidrográficas e o gerenciamento integrado na Política Nacional de Recursos Hídricos. *Desenvolvimento & Meio Ambiente*, v. 45, 56-80. <https://doi.org/10.5380/dma.v45i0.47280>.
- Muller Neto, J.S.; Artmann, E., 2012. Política, gestão e participação em Saúde: reflexão ancorada na teoria da ação comunicativa de Habermas. *Ciência & Saúde Coletiva*, v. 17 (12), 3407-3416. <https://doi.org/10.1590/S1413-81232012001200025>.
- Muttaqin, T.; Soraya, E.; Dharmawan, B.; Laraswati, D.; Maryudi, A., 2023. Asymmetric power relations in multistakeholder initiatives: insights from the government-instituted Indonesian National Forestry Council. *Trees, Forests and People*, v. 12 (100406), 1-7. <https://doi.org/10.1016/j.tfp.2023.100406>.
- Néris, M.C.N.; Pizella, D.G., 2022. A participação do segmento sociedade civil no conselho estadual de recursos hídricos do estado de São Paulo. *Revista Gestão e Sustentabilidade Ambiental*, v. 11 (2), 32-50. <https://doi.org/10.59306/rgsa.v11e2202232-50>.
- Ordoñez, S.R.H., 2020. Los Nuevos Derechos de Acceso em materia ambiental: el caso del Acuerdo de Escazú. *Estudios en Derecho a la Información*, v. 1 (9), 113-132. <https://doi.org/10.22201/ijj.25940082e.2020.9.14281>.
- Organización de las Naciones Unidas para la Educación, la Ciencia y la Cultura (UNESCO), 2024. *El acceso a la información ambiental en América Latina y el Caribe: síntesis de decisiones de órganos garantes y jurisprudencia seleccionada*. UNESCO, Montevideo, 56 p.
- Peixoto, F.S.; Soares, J.A.; Ribeiro, V.S., 2022. Conflitos pela água no Brasil. *Sociedade & Natureza*, v. 34, 1-13. <https://doi.org/10.14393/SN-v34-2022-59410>.
- Pickering, J.; Hickmann T.; Backstrand, K.; Kalfagianni, A.; Bloomfield, M.; Mertf, A.; Ransan-Cooper, H.; Lo, A.Y., 2022. Democratising sustainability transformations: assessing the transformative potential of democratic practices in environmental governance. *Earth System Governance*, v. 11 (100131), 1-14. <https://doi.org/10.1016/j.esg.2021.100131>.
- Shearman, D.J.C.; Smith, J.W., 2007. *The climate change challenge and the failure of democracy*. Praeger, Westport, CT.
- Silva, C.V.; Silva, D.F.L.; Souza, E.M., 2013. A participação da sociedade civil na democratização do setor de saúde no Brasil. *Revista Brasileira De Educação Médica*, v. 37 (2), 254-259.
- Suman, A.B., 2021. Citizen sensing from a legal standpoint: legitimizing the practice under the Aarhus Framework. *Journal for European Environmental & Planning Law*, v. 18 (1-2), 8-38. <https://doi.org/10.1163/18760104-18010003>.